

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALEXANDER PLADOTT
Plaintiff,

v.

LARRY EWERS, et al.,
Defendants.

CIVIL ACTION
NO. 05- 10356-RWZ

**AFFIDAVIT OF LARRY EWERS IN SUPPORT OF
OPPOSITION TO MOTION TO PRECLUDE ENTRY OF JUDGMENT
IN C.A. NO. 04-10024-RWZ**


I, Larry Ewers, on oath depose and state as follows:

1. I am the defendant in the above action and I make this affidavit upon my personal knowledge.
2. I have read Plaintiff's Motion To Preclude Entry Of Judgment In C.A. No. 04-10024-RWZ Based On Misrepresentation By Defendant Larry Ewers ("Motion to Preclude"). I have also read the Affidavit of Alexander Pladott ("Pladott") (the "Pladott Affidavit") and the Affidavit of Mark Parfitt ("Parfitt") (the "Parfitt Affidavit"), submitted in support of the Motion to Preclude.
3. I am the plaintiff in Ewers v. Heron et al., U.S. District of Massachusetts Civil Action No. 04-10024-RWZ ("Ewers Litigation"); Christopher Patrick Heron ("Heron") is a named defendant in the Ewers Litigation.
4. APS International Ltd ("APS"), a process server employed on my behalf in January 2004 to affect service on Heron in the U.K. at his address at 21 Dale House, Boundary Road, London, England ("21 Dale House Address"), was unable to effect service on Heron at that address.

5. APS' Certificate dated February 25, 2004 indicated that their agent was unable to serve Heron at the 21 Dale House Address because "the defendant has left the address given." A true copy of APS' February 25, 2004 Certificate is attached as Exhibit A.
6. On March 8, 2004, an investigator retained by me confirmed that Heron still resided at the 21 Dale House address.
7. On March 23, 2004, I spoke to Alexander Pladott ("Pladott") concerning using an alternative process server for Heron due to APS' inability to serve process on Heron at the 21 Dale House Address.
8. Pladott informed me that he was talking to Mark Parfitt ("Parfitt"), a UK-based private investigator, about hiring him to serve Heron with process for the Ewers Litigation.
9. On March 29, 2004, Parfitt sent an email to Pladott confirming their agreement for Parfitt to "serve papers on Christopher Heron and swear affidavit confirming service at county court local to Heron's address." A true copy of Parfitt's March 29, 2004 email is attached at Exhibit B.
10. On March 30, 2004, I sent Parfitt, via express mail, documents related to the Ewers Litigation to be served on Heron at the 21 Dale House Address. A true copy of the cover letter enclosing those documents is attached as Exhibit C.
11. On April 9, 2004, I learned that Parfitt had served Heron with process.
12. On April 16, 2004, Parfitt sent me an email indicating that he had sent via UPS overnight delivery the "copy of papers, with appropriate certificate of service and certificate of compliance with Hague Convention." A true copy of Parfitt's April 16, 2004 email is attached as Exhibit D.

13. Once I received those documents from Parfitt, I forwarded them to counsel for submission to the Court.
14. On April 19, 2004, Parfitt sent me an email indicating that he had spoken with Pladott concerning service of process on Heron. Parfitt stated that the "Certificate of Service was stamped by the clerk at the Central London County Court", who "retained a copy of the papers that were served and will have a record of issuing the certificate of service." Parfitt also stated that "[t]he certificate of compliance with the Hague Convention was sworn in front of a solicitor[.]" A true copy of Parfitt's April 19, 2004 email is attached as Exhibit E.

Signed under the penalties of perjury this 7 day of October, 2005.


LARRY EWERS

A

SFP 2004-493

CERTIFICATE - ATTESTATION

The undersigned authority has the honour to certify, in conformity with article 6 of the Convention
L'autorite soussignée a l'honneur d'attester conformement a l'article 6 de ladite Convention.

1) that the document has been served the (date)
que le demande a ete executee le (date)

-at (place, street, number)
-a (localite, rue, numero)

- in one of the following methods authorised by article 5:
-dans une des formes suivantes prevues a l'article 5:
a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the convention
selon les formes legales (article 5, alinea premier, lettre a)

b) in accordance with the following particular method
selon la forme particuliere suivante

c) by delivery to the addressee, who accepted it voluntarily
par remise simple
The documents referred to in the request have been delivered to:

Les documents mentionnes dans la demande ont ete remis a:

- (identity and description of person)
- (identite et qualite de la personne)
- relationship to the addressee (family, business or other)
- liens de parente de subordination ou autres avec le destinataire de l'acts

2) that the document has not been served, by reason of the following facts:

que la demande n'a pas ete executee en ra
que la demande n'a pas ete executee, en raison des faits suivants:

The defendant has left the address given.

in conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay the expenses details in the attached statement.

Conformement a l'article 12, alinea 2 de ladite Convention, le requérant est prie de payer ou de rembourser les frais dont le detail figure au memoire ci-joint

Annexes

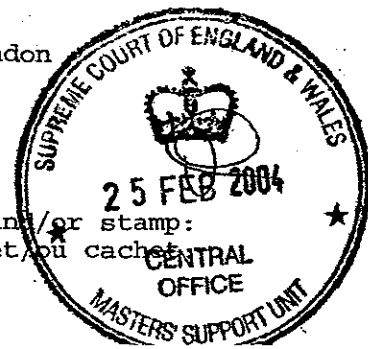
Documents returned
Pieces renvoyees

in appropriate cases, documents establishing the service:
le cas echeant, les documents justificatifs de l'execution:

Done at London
fait a

the
le

Signature and/or stamp:
Signature et/ou cachet



B

lewers@stx.rr.com

From: <specialistpi@fsmail.net>
To: "Ss4re" <Ss4re@aol.com>
Sent: Monday, March 29, 2004 2:13 PM

Dear Mr. Pladott,

Further to our recent telephone conversations, I can confirm the following information:

Agreement to serve papers on Christopher Heron and swear affidavit confirming service at county court local to Heron's address.

Fee for services will depend on duration spent awaiting Heron. Fees charged at per hour, minimum of 4 hours plus 1 hour travel. Address for FEDEX of service papers: SPI, 14 Eleanor Road, Chalfont St Peter, Gerrards Cross, Bucks, SL9 9LZ. I would anticipate that we would be able to commence proceedings in the week commencing April 5.

Sincerely,

Mark Parfitt

Specialist Private Investigators

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www.freeseve.com/anytime

3/29/2004

C

30 March 2004

Specialist Private Investigators

Sir:

Please find attach one original copy for service of Christopher Patrick Heron. Included is one photocopy.

Listed is all information on Heron:

1. Address – 21 Dale House, Boundry Road, London, England
2. Telephone Number: 44 20 7372 3760
Cell 79 44 834011 (Not sure if this is still number)

Please verify through numbers provided by Mr. Pladott to the correctness of telephone numbers

Our legal team has informed us we must secure a service by the bailiff in the UK to conform to the Hague Convention. If there is anyway for you to help in securing the bailiff to serve Heron we would be most appreciative. I do not know if you can take your Notarized Affidavit of Fact of service and obtain a service notice by the bailiff which would comply with the Hague Convention. We have waited since the early part of January to obtain service of Heron. In fact the bailiff attempted to serve Heron, but Heron informed him he no longer lived at this address. Unbelievable!

We appreciate your prior assistance, and any help you can give us in obtaining the service of Heron. Please forward via e-mail your invoice for service to the following e-mail address: lewers@stx.rr.com.

Thanking you in advance for your assistance.

Regards,

Larry Ewers

D

lewers@stx.rr.com

From: <specialistpi@fsmail.net>
To: "Ss4re" <Ss4re@aol.com>
Sent: Monday, March 29, 2004 2:13 PM

Dear Mr. Pladott,

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Sincerely,

Mark Parfitt

Specialist Private Investigators

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www.freemove.com/anytime

3/29/2004

H

lewers@stx.rr.com

From: <specialistpi@fsmail.net>
To: <lewers@stx.rr.com>
Sent: Monday, April 19, 2004 12:18 PM
Subject: Re: Wire

Dear Mr. Ewers,

I spoke earlier with Alex Pladott and wished to clarify a couple of points re. the service of papers on Christopher Patrick Heron. The Certificate of Service was stamped by the clerk at the Central London County Court, 13-14 Park Crescent, London, W1. They retained a copy of the papers that were served and will have a record of issuing the certificate of service. Their telephone number is +44 2079175000. The certificate of compliance with the Hague Convention was sworn in front of a solicitor, John Leonard, from Finers Stephens Innocent Solicitors authorised Commissioners of Oaths. They have the authority to witness sworn statements. They are based at 179 Great Portland Street, London, W1N 6LS, telephone +44 2073234000. I trust this clarifies matters.

Sincerely,

Mark Parfitt

Specialist Private Investigators

Message date : Apr 19 2004, 05:46 PM
From : lewers@stx.rr.com
To : specialistpi@fsmail.net
Copy to : Ss4re@aol.com
Subject : Wire
Mr. Parfitt:

Wire transfer was sent out today 4-19-04.

Thanking you for your service.

Sincerely,

Larry Ewers

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4/19/2004